

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

MICHAEL JEROME KING, #N6606

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:13-cv-362-LG-JMR

CITY OF PASCAGOULA, et al.

DEFENDANTS

ORDER OF PARTIAL DISMISSAL

This matter comes before the Court, *sua sponte*, for consideration of the dismissal of Defendant Pascagoula Police Department. Plaintiff filed the instant civil action pursuant to 42 U.S.C. § 1983 on September 16, 2013. The named Defendants are the City of Pascagoula, Pascagoula Police Department, and Sheila Jenkins. Plaintiff's Complaint [1] as well as his Response [12] to the Court's Order [10] allege that Defendants violated his constitutional rights. Having reviewed the Complaint [1], Plaintiff's Responses [12] and applicable law, the Court has determined that Plaintiff cannot maintain this case against Defendant Pascagoula Police Department.

The Pascagoula Police Department is not a proper party because it is not a political subdivision or separate legal entity in and of itself. *See Upchurch v. City of Moss Point*, Civil Action No. 1:10-CV-228-LG-RHW, 2011 WL 5082224, *2-3 (S.D. Miss. Oct. 26, 2011)(holding that the Moss Point Police Department was not a proper party because it does not enjoy a separate legal existence from the City of Moss Point); *Stewart v. Jackson Co., Miss.*, No. 1:07-CV-1270-WJG-JMR, 2008 WL 4287112 at *1 (S.D. Miss. Sept. 16, 2008)(citing Miss. Code Ann. § 21-17-1) (determining under the law of Mississippi that "a city's police department is not

considered to be an entity separate from the city"). Because the Pascagoula Police Department is merely a department of the City of Pascagoula, this Defendant is not a proper party and must be dismissed.

The Court, however, determines that at this stage of the screening process, Plaintiff has stated an arguable claim in his Complaint [1] and Response [12] against Defendants City of Pascagoula and Sheila Jenkins. Accordingly, it is

ORDERED AND ADJUDGED that Defendant Pascagoula Police Department is dismissed with prejudice as a Defendant. A separate Order directing summons to issue for Defendants City of Pascagoula and Sheila Jenkins will be entered.

SO ORDERED AND ADJUDGED this the 20th day of November, 2013.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE